

**IN THE COURT OF APPEAL OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF SRI LANKA**

In the matter of an application for Mandates in
the nature of *Writs of Certiorari*, and *Mandamus*
under and in terms of Article 140 of the
Constitution of the Democratic Socialist
Republic of Sri Lanka.

C.A. (Writ) Application

No: 0480/2019

Don Piyatissa Kumarage,
No. 47/35, Louis Pieris Mawatha,
Kandy.

PETITIONER

Vs.

1. Sunanda Kariyapperuma,
Commissioner General of Buddhist Affairs,
“Dahampaya”, No. 135,
Srimath Anagarika Dharmapala Mawatha,
Colombo 07.
2. W.P.C. Wickramaratne,
Auditor General,
Auditor General’s Department,
306/72, Polduwa Road,
Baththaramulla.

RESPONDENTS

Before : Dhammika Ganepola, J.
K.P. Fernando.J.
Adithya Patabendige, J.

Counsel : Sandamal Rajapaksa with Kalpanee Dissanayake for the Petitioner.
SASG Sumathi Dharmawardena PC with S.C Dilantha Sampath for the Respondents.

Argued on : 19.01.2026
11.02.2026

Decided on : 28.04.2026

Adithya Patabendige, J.

The Petitioner invokes the jurisdiction of this Court, under Article 140 of the Constitution, seeking, *inter alia*, a mandate in the nature of a *writ of mandamus*, compelling the 1st Respondent to conclude the disciplinary inquiry against him based on the charge sheet dated 06th September 2019 marked **P12a** and to communicate the decision to the Petitioner forthwith.

The Petitioner further seeks, in the alternative, a mandate in the nature of a *writ of mandamus* directing the reinstatement of the Petitioner as the Basnayake Nilame of the Ruhunu Maha Kataragama Devalaya.

Factual Background

The Petitioner states that he was duly appointed and served as the Basnayake Nilame of the Ruhunu Maha Kataragama Devalaya, and that he was entitled to continue in that office for a period of five years commencing on 29th April 2015.

According to the Petitioner, he is the custodian of the keys of the Devalaya and is also responsible for allocating Thewa months among Kapuralas of the said Devalaya. There had been a dispute regarding the handover of the keys between the Petitioner and certain Kapuralas, led by the Chief Kapurala, in August 2017. Meanwhile, the Petitioner was assaulted by a group of Kapuralas led by the Chief Kapurala. Following the Petitioner's

complaint about the assault, the Katharagama Police Station initiated proceedings before the Magistrate's Court of Tissamaharamaya.

In the meantime, the Petitioner received a letter dated 29th November 2017, marked **P5b**, from the 1st Respondent, directing the Petitioner to attend a disciplinary inquiry regarding alleged irregularities at Ruhunu Maha Katharagama Devalaya. As per the said letter, the Petitioner was informed by the 1st Respondent that a retired Judge of the High Court, Mr. Bandula Atapattu, was appointed as the inquirer in terms of Section 15(1) of the Buddhist Temporalities Ordinance to look into the said irregularities. After the inquiry, the report marked **P7a** was submitted, in which the inquirer recommended suspending the Petitioner pending disciplinary proceedings. The Petitioner was suspended from his position with immediate effect from the letter dated 09th April 2018, marked **P6**.

The 1st Respondent asked the Auditor General, the 2nd Respondent, to conduct an audit of the Ruhunu Maha Kataragama Devalaya concerning the alleged irregularities. The Audit Report dated 04th July 2019 was submitted as **P12b**.

It is his position that disciplinary proceedings were initiated against him by the 1st Respondent by way of a charge sheet dated 06th September 2019, marked **P12(a)**, and that the Respondents failed to conclude the said inquiry within a reasonable time. The main contention of the Petitioner is that, although he responded to the charges on 02nd October 2019, the disciplinary proceedings were not concluded expeditiously.

The 1st Respondent denies the material averments of the Petitioner and states that the inquiry process has been concluded. It is also stated that the matter is presently pending consideration by the Hon. Attorney General for further action in terms of Section 15(2) of the Buddhist Temporalities Ordinance. In these circumstances, the Respondents contend that the present application is misconceived, and devoid of merit, and that the Petitioner is not entitled to relief in the exercise of the writ jurisdiction of this Court.

Issues for Determination

The matters that arise for determination in this application are whether the Petitioner is entitled to a *writ of mandamus* compelling the 1st Respondent to conclude the inquiry and communicate its decision, whether such relief has become futile in view of the admitted

completion of the inquiry, and whether the alternative relief seeking reinstatement is capable of being granted in law.

Analysis

The principal relief sought by the Petitioner is a *writ of mandamus* compelling the 1st Respondent to conclude the inquiry initiated by the charge sheet dated 06th September 2019. It is well-settled law that a *writ of mandamus* will issue only to compel the performance of a subsisting public duty. Where the duty sought to be enforced has already been performed, such a writ will not lie. In the present case, it is the admitted position that the inquiry has already been concluded and that the matter is presently under consideration by the Hon. Attorney General. In such circumstances, the principal relief sought by the Petitioner has been overtaken by events and is incapable of being granted. *Mandamus* does not lie to compel the performance of an act which has already been performed or is no longer necessary.

The Petitioner, in the alternative, seeks reinstatement to the office of Basnayake Nilame. However, it is evident that the term of office in question has already lapsed. In such circumstances, even assuming that the Petitioner establishes any alleged illegality, this Court is not in a position to grant the said relief, as no subsisting legal right remains capable of enforcement. A *writ of mandamus* cannot be issued in respect of a right that has ceased to exist.

It is also to be noted that the reliefs sought by the Petitioner are internally inconsistent, inasmuch as the Petitioner seeks both the conclusion of the inquiry and, in the alternative, reinstatement to office. Such reliefs proceed on mutually incompatible premises and further underscore the untenability of the present application.

In the totality of circumstances, the principal relief sought by the Petitioner has become futile, the alternative relief is incapable of being granted, and disentitles the Petitioner to relief in the exercise of the discretionary jurisdiction of this Court.

Conclusion and Order

For the foregoing reasons, this Court is of the view that the present application is misconceived in law, devoid of merit, and has in any event become futile.

Accordingly, this application is dismissed.

Considering the aforementioned circumstances, the Petitioner is ordered to pay Rs. 10,000 to the State as costs of litigation.

JUDGE OF THE COURT OF APPEAL

Dhammika Ganepola, J

I agree.

JUDGE OF THE COURT OF APPEAL

K.P.Fernando, J

I agree.

JUDGE OF THE COURT OF APPEAL